City of Saint Paul and Saint Paul Housing & Redevelopment Authority Disparity Study



Final Report Presentation



Presentation Agenda



- Why is a Disparity Study Necessary?
- Legal Guidelines and Methodology



Croson and Legal Guidelines



Strict Scrutiny Standard of Review

☐ A Compelling Interest Can be found in private sector discrimination.

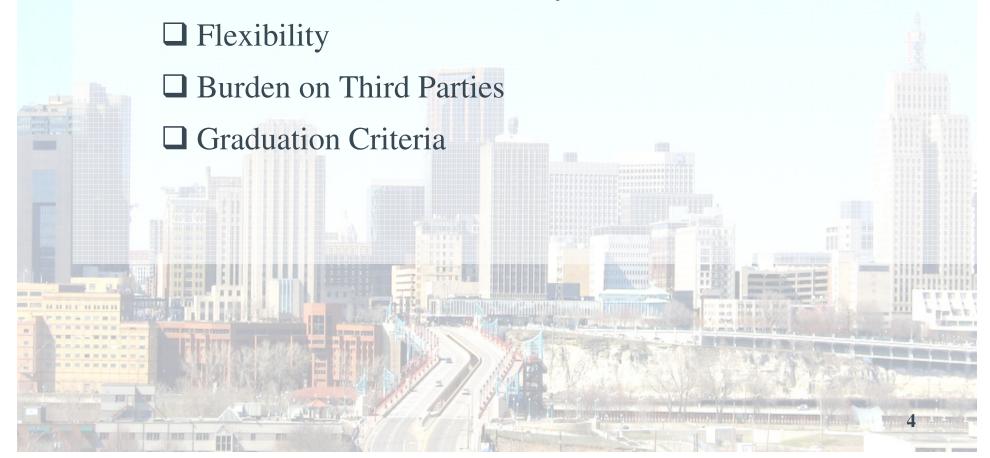
- Narrow Tailoring
 - ☐ Evaluate and Employ Race-Neutral Methods
 - ☐ U.S. Department of Transportation Guidelines for Narrowly Tailored M/WBE Program
 - ☐ Solution Must Be Proportionate to the Problem

Croson and Legal Guidelines (cont.)



◆ Narrow Tailoring (cont.)

☐ Goals Related to Availability



Methodology



- ◆Legal Review
- ◆Policies, Procedures, and Programs Review
- ◆Market Area, Utilization, and Availability Analyses
- **◆**Disparity Analyses
- **◆**Capacity Analyses
- ◆Anecdotal Analyses
- **◆Private Sector Analyses**
- ◆Findings, Commendations, and Recommendations

Background



- ◆ Study period: January 1, 2002 to December 31, 2006.
- Jurisdictions: City of Saint Paul and Saint Paul Housing & Redevelopment Authority.
- ◆ City's business categories: prime contracting and subcontracting on construction, architecture and engineering, goods equipment and supplies, professional services, and other services.
- HRA's business categories: prime contracting and subcontracting on HRA development projects.
- Focus on availability analysis was bidders, vendors, and census.





Key Findings-City Prime Utilization



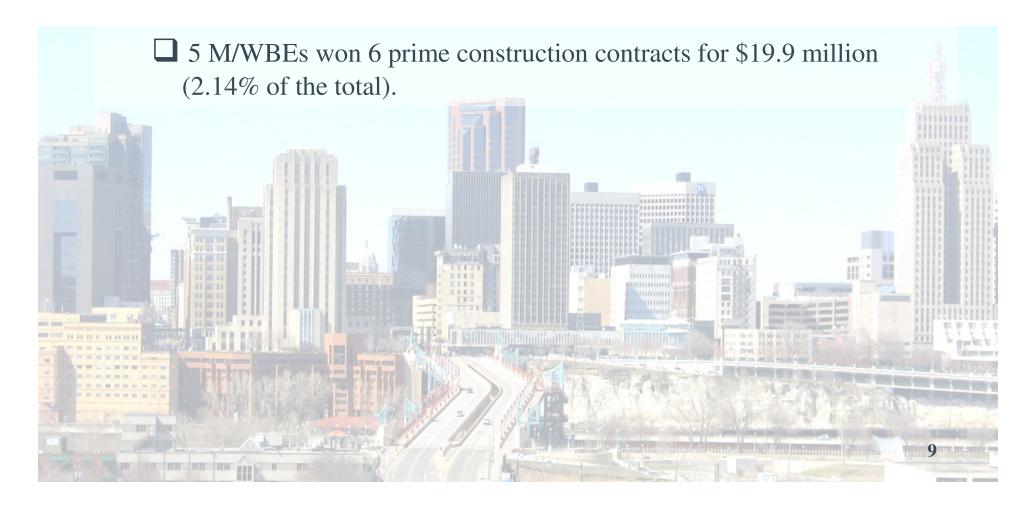
◆ The dollar value of M/WBE prime utilization by the City over the study period was as follows:

□ 32 M/WBEs won 76 prime construction contracts for \$26.24 million (14.06 % of the total).
□ 6 M/WBEs won 19 prime architecture and engineering contracts for \$2.19 million (11.32 % of the total).
□ 15 M/WBEs won 30 prime professional services contracts for \$868,155 (5.1 % of the total).
□ 10 M/WBEs won 17 other services contracts for \$156,729 (1.77 % of the total).
□ 27 M/WBEs won 79 goods, equipment, and supplies contracts for \$1.23 million (1.74 % of the total).

Key Findings-HRA Prime Utilization



◆ The dollar value of M/WBE prime utilization by the HRA over the study period was as follows:



Key Findings-City and HRA Prime Utilization (cont).

Disparity of M/WBE Prime Contractor Utilization City of Saint Paul and Saint Paul Housing & Redevelopment Authority January 1, 2002 through December 31, 2006 Asian

Business Category	African American	Hispanic American	America n	Native American	Nonminorit y Women
Construction - City	Yes	Yes	No	Yes	Yes
Architecture and Engineering	Yes	N/A	Yes	Yes*	Yes**
Professional Services	Yes	Yes	Yes	Yes	No
Other Services	Yes	Yes	Yes	Yes	Yes
Goods, Equipment, and Supplies	Yes	Yes	Yes	Yes	Yes
 Construction - HRA	Yes	Yes	Yes	Yes	Yes

Source: Disparity findings are taken from the disparity exhibits previously shown in Chapter 5.0.

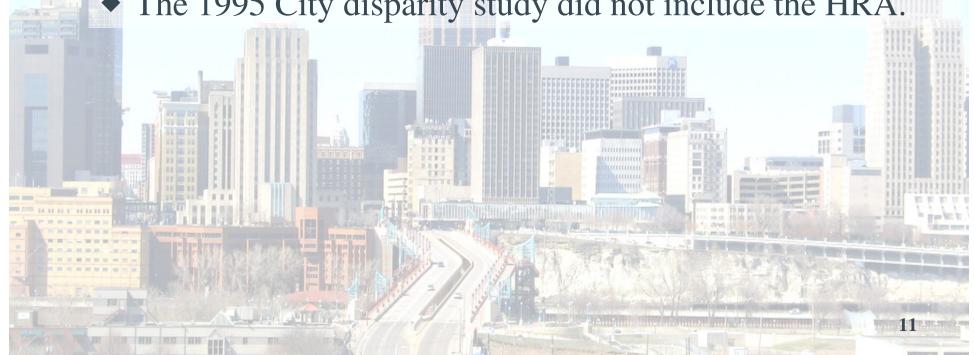
^{*}N/A in one data source, disparity in the other data source.

^{**}Under utilization in one data source, over utilization in another data source

Key Findings-Prime Utilization



- ◆ The 1995 City disparity study reported the following:
 - ☐ MBE utilization between 0.9 percent and 1.66 percent.
 - WBE utilization between 1.9 percent and 9.1 percent.
- The 1995 City disparity study did not include the HRA.



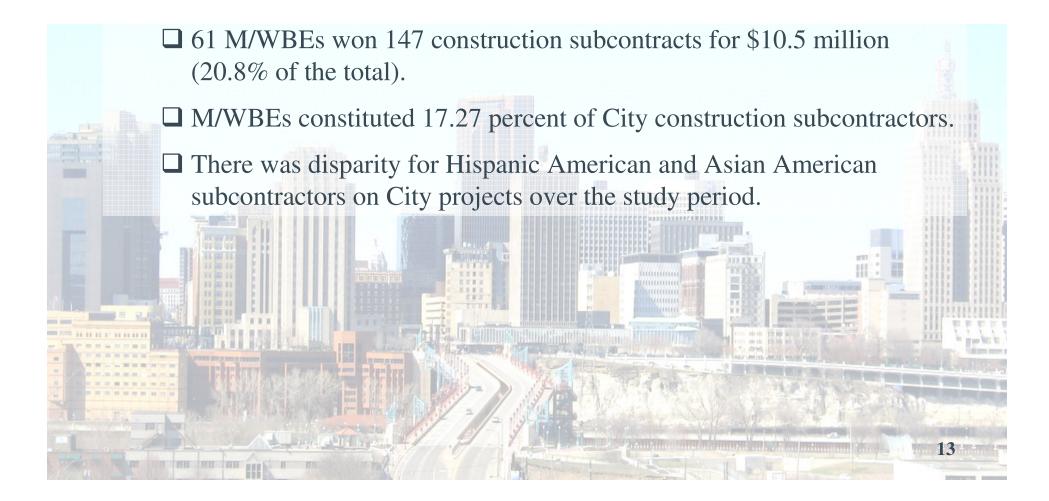




Key Findings-City Sub Utilization and Disparity



◆ The dollar value of M/WBE sub utilization on City projects over the study period was as follows:



Key Findings-City Subcontractor Utilization, Availability, and Disparity

M/WBE Subcontractor Utilization, Availability, and Disparity on City Projects City of Saint Paul January 1, 2002 through December 31, 2006

Business Category	African American	Hispanic American	Asian American	Native American	Nonminority Women	M/WBE Firms
Construction Subcontractors - Dollars	\$1,985,317	\$87,702	\$856,706	\$2,116,348	\$5,522,319	\$10,568,392
Construction Subcontractors - Percent	3.91%	0.17%	1.69%	4.17%	10.87%	20.81%
Construction Subcontractors - Availability	3.29%	1.68%	2.05%	1.17%	9.08%	17.27%
Disparity	No	Yes	Yes	No	No	

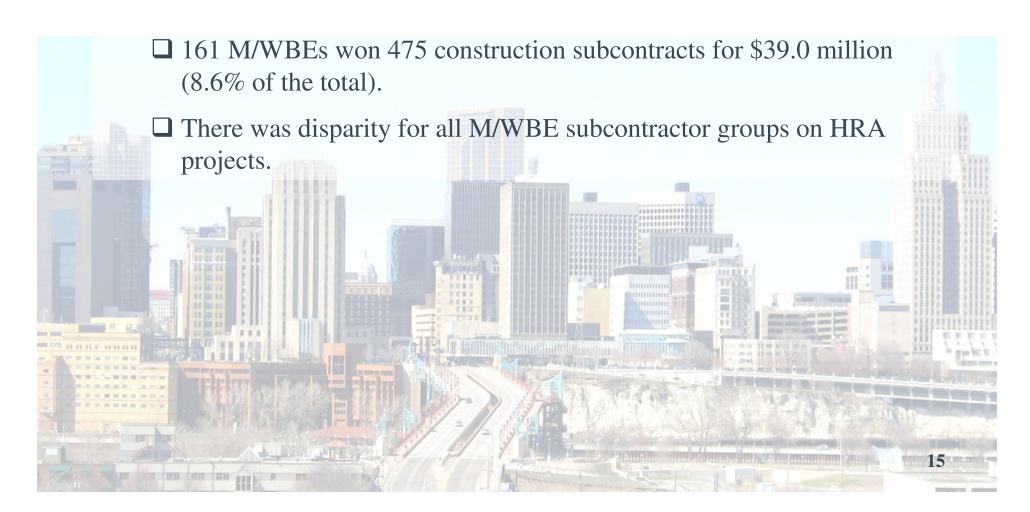
Source: Utilization, availability, and disparity findings are taken from the disparity exhibits previously shown in Chapters 4.0 and 5.0.



Key Findings-HRA Sub Utilization and Disparity



◆ The dollar value of M/WBE sub utilization on HRA projects over the study period was as follows:



Key Findings-City Subcontractor Utilization, Availability, and Disparity

M/WBE Subcontractor Utilization, Availability, and Disparity on City Projects Housing & Redevelopment Authority January 1, 2002 through December 31, 2006

Business Category	African American	Hispanic American	Asian American	Native American	Nonminorit y Women	M/WBE Firms
Construction Subcontractors - Dollars	\$7,095,444	\$2,008,045	\$2,615,857	\$1,947,707	\$25,372,115	\$39,039,168
Construction Subcontractors - Percent	1.56%	0.44%	0.58%	0.43%	5.59%	8.60%
Subcontractors - Availability	3.29%	1.68%	2.05%	1.17%	9.08%	17.27%
Disparity	Yes	Yes	Yes	Yes	Yes	

Source: Utilization, availability, and disparity findings are taken from the exhibits previously shown in Chapters 6.0.





Private Sector Analysis



- ◆ In local building permits data, M/WBEs won more than 4 percent (4.57%) of construction prime contracts and less than 2 percent (1.94%) of construction subcontracts.
- ◆ Based on Reed Construction Data, M/WBEs won more than 3 percent (3.21%) of construction prime contracts.



Private Sector Analysis Findings (cont.)



- Regression Analysis
 - After controlling for size, business experience, and related factors, race and gender were negatively related to firm revenue.
- Self Employment Analysis
 - After controlling for size, business experience, and related factors, race and gender were negatively related with entry into and earnings from self-employment in construction and professional services.
- ◆ Credit Analysis
 - ☐ In 2003 data, African American firms still faced barriers in small business credit markets after controlling for firm size, credit rating, and related variables.





Anecdotal Analysis Findings



M/WBE Respondents on Prime Contracting Barriers

	◆ The biggest concern among respondents was rigid bid specifications (2 Other key issues noted were as follows:	7.6%).
	☐ Competing against large firms (16.3%)	
	☐ Size of contracts (10.4%)	
	☐ Time allotted to prepare bids and quotes (8.4%)	
E	☐ Bid specifications (7.1%)	
1	☐ Pre-qualification requirements (6.5%)	
X		
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Anecdotal Analysis Findings (cont.)



M/WBE Respondents on Subcontracting Barriers

- ◆ Of the M/WBE respondents who answered our questions about subcontracting, the primary negative issue noted was:
 - □ Primes changed their bidding procedures when not required to use M/WBE firms (30.7%). However, no M/WBEs reported a poor relationship with prime contractors.
 - ☐ M/WBE respondents agreed that an informal network of firms limited their ability to obtain work in the private and public sectors (25.4%), 19.3 percent of non-M/WBE firms agreed with the same statement.

Anecdotal Analysis Findings (cont.)



M/WBE Respondents on Discrimination in the Private Sector

- ◆ Over 9 percent of M/WBE respondents reported experiencing discriminatory behavior from private sector organizations. The group with the highest percentage reporting discriminatory behavior in the private sector was African Americans (29.4%).
- ◆ Slightly more than 57 percent of M/WBE respondents did not work with the same prime contractors in the private sector that they worked with on other public sector projects. Conversely, approximately 28 percent of the M/WBE respondents did work with the same prime contractors in both the private and public sectors.





Vendor Outreach Program Findings



City and HRA S/M/WBE Goals

- ◆ City sets aspiration goals annually as part of the budget process, primarily based on past levels of M/WBE achievement and forthcoming projects.
- ◆ HRA has VOP goals of 5 percent MBE, 5 percent WBE, and 5 percent SBE.

S/M/WBE Program Data

◆ The City has a relatively complete reporting system for S/M/WBEs, and includes utilization at the subcontract and prime contract levels.

Private Sector Initiatives

◆ The HRA promotes S/M/WBE utilization on private sector projects that receive City assistance.



Recommendations-City



City Recommendation 1: Construction

♦ Best Value Construction

☐ The City should consider how best value procurement of construction can assist in S/M/WBE utilization in construction.

♦ Joint Ventures

☐ The City should consider adopting a joint venture policy similar to the one implemented by the City of Atlanta. Atlanta requires establishment of joint ventures on large projects of over \$10 million. Primes are required to joint venture with a firm from a different ethnic/gender group in order to ensure prime contracting opportunities for all businesses.

Recommendations-City (cont.)



City Recommendation 2: Professional Services and Other Services

- **◆** Establish Bidder Rotation for Services
 - The percentage of M/WBE utilization in other services has declined since the early 1990s. The City should review procurement categories where bidder rotation may increase M/WBE prime utilization and does not conflict with state procurement statutes.

City Recommendation 3: Goods, Equipment, and Supplies

- **♦ State Contracts, Master Contracts and Cooperative Agreements**
 - ☐ The City should consider instituting a policy of encouraging purchasing staff to use S/M/WBEs that are on state contracts and identified as such when the City uses state term contracts in purchasing.

Recommendations-City (cont.)



City Recommendation 4: SBE Program for Prime Contracts

◆ The City should be commended for its longstanding SBE program. A strong SBE program is central to maintaining a narrowly tailored program to promote M/WBE utilization. In particular, the City should focus on increasing M/WBE utilization through the SBE program.

City Recommendation 5: M/WBE Subcontractor Project Goals and Good Faith Efforts

◆ The City should consider reviewing its good faith effort requirements in its contracts. The core theme should be that prime contractors should document their outreach efforts and the reasons why they may have rejected qualified M/WBEs who were the low-bidding subcontractors.

City and HRA Recommendation: Narrowly Tailored S/M/WBE Program

◆ The City and the HRA should consider adopting these features in any new narrowly tailored M/WBE program. The City and HRA should also have a sunset date for the program.

Recommendations-HRA



HRA Recommendation 1: Joint Venture

◆ The HRA should consider adopting a joint venture policy similar to the one implemented by the City of Atlanta. Atlanta requires establishment of joint ventures on large projects of over \$10 million. Primes are required to joint venture with a firm from a different ethnic/gender group in order to ensure prime contracting opportunities for all businesses.

HRA Recommendation 2: M/WBE Subcontractor Project Goals and Good Faith Efforts

◆ The HRA should consider reviewing its good faith effort requirements in its contracts. The core theme should be that prime contractors should document their outreach efforts and the reasons why they may have rejected qualified M/WBEs who were the low-bidding subcontractors.

Recommendations-HRA



HRA Recommendation 3: HRA Annual Aspirational M/WBE Goals

- ◆ This study provides evidence to support the continuance of a moderate program by HRA to promote M/WBE utilization.
- ◆ The HRA should tailor its M/WBE participation programs to remedy each of these specific disparities.
- ◆ The HRA aspirational goals should be adjusted. The HRA VOP S/M/WBE goals are not expressly linked to business availability. Goals of 5 percent MBE and 10 percent WBE would be more in line with estimated business availability.

HRA and City Recommendation: Narrowly Tailored S/M/WBE Program

◆ The HRA and the City consider adopting these features in any new narrowly tailored M/WBE program. The HRA and the City should also have a sunset date for the program.

Other Commendations and Recommendations-City and HRA

Commendation 1: Economic Development

◆ The HRA should be commended for the level of effort expanded on S/M/WBE inclusion for the HRA that is unusual nationally. The City should also be commended for its Small Developer Ownership Construction Program, a unique initiative nationally.

Commendation 2: Prompt Payment of Subcontractors

◆ The state of Minnesota should be commended for covering subcontractors in its prompt payment statute. S/M/WBE vendors still have problems with prompt payment, particularly payments by prime contractors to subcontractors.

Commendation 3: Firms Owned by the Disabled

◆ The City and HRA should be commended for identifying firms owned by the disabled and assisting firms owned and staffed by the disabled in seeking City contracts. The City and HRA should track its spending with firms owned by the disabled.

Commendation 4: Certification

◆ The City should be commended for its leadership of unified certification efforts through the CERT program.

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Other Commendations and Recommendations-City and HRA



Other Commendations and Recommendations

- Longstanding SBE Program
- Outreach (workshops and seminars, newsletters, and linking the M/WBE list on the Web Site)
- City Web Site
- ◆ S/M/WBE Program Data Management
- Oversight Committee
- Staffing and Reporting
- ◆ Commercial Anti-discrimination Rules
- Access to Capital
- Business Development Assistance
- Mentor-Protégé Program

Other Commendations and Recommendations-City and HRA

Other Commendations and Recommendations

♦ Prime Contractors



Best Practices



- Bidder Rotation
- **◆** M/WBE Project Goal Setting
- Small Business Programs
- **◆** Collateral Enhancement Programs
- **◆** Insurance Programs
- Mentor-Protégé Programs
- **♦** Evaluation of Race-Neutral Alternatives

- **♦** Performance Measures
- **◆** Private Sector Initiatives
- **◆** Two-Tier Certification of Small Businesses
- M/WBE Web Sites and Reporting
- Outreach





About MGT of America, Inc.



- ◆ MGT is a national management and research consulting firm
- With over 30 years of consulting experience, MGT has completed over 3,300 client engagements in 50 states
- ◆ Since 1989, MGT has conducted over 120 disparity and disparity-related studies
- Founded in 1974 in Tallahassee, Florida
- ◆ Network Offices 130 employees
 - ☐ Tallahassee, Florida
 - ☐ Sacramento, California
 - Olympia, Washington
 - ☐ Austin, Texas



